COMPARISON OF SUPERFUND FINANCING PROVISIONS IN H.R. 2005 AS PASSED BY THE HOUSE AND THE SENATE

Prepared for the Use of the Conferees

By the Staff of the

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INTRODUCTION

This document[1] compares the Superfund and related financing provisions of present law (prior law for excise taxes that expired after September 30, 1985), and H.R. 2005 as passed by the House of Representatives and the Senate.

The House provisions are contained in Title V of H.R. 2005 ("The Superfund Revenue Act of 1985"), which passed the House of Representatives (as amended) on December 10, 1985.[2] The Senate provisions are contained in Title II of the Senate amendment to H.R. 2005, which passed the Senate on September 26, 1985.[3]

This document, prepared for the use of the conferees on H.R. 2005, has 12 separate parts, describing each of the Superfund and related financing provisions of the House and Senate versions of the bill.

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[1] This document may be cited as follows: Joint Committee on Taxation, Comparison of Superfund Financing Provisions of H.R. 2005 as Passed by the House and the Senate (JCX-1-86), February 26, 1986.

[2] The House Superfund provisions are from H.R. 2817 as amended on the House Floor (Dec. 5-6 and 10, 1985). See also, H. Rep. No. 99-253, Parts 1-5, for House Committee reported versions of H.R. 2817. (H.R. 2005 as originally passed by the House on May 14, 1985, contained social security technical amendments.)

[3] The Senate Superfund provisions were reported in S. 51. The Superfund financing provisions were reported by the Senate Committee on Finance on May 23, 1985 (S. Rep. No. 99-73). S. 51 previously had been reported by the Senate Committee on Environment and Public Works on March 18, 1985 (S. Rep. No. 99-11).

SUPERFUND

Item	Present Law	House Bill	Senate Bill
I. Hazardous Substance Response Trust Fund ("Superfund")			
A. Summary of main financing sources	Provided for deposits of tax revenues and general revenue appropriations into the Superfund intended to total $1.6 billion for fiscal years 1981-1985. $1.4 billion of the intended $1.6 billion funding level was derived from excise taxes and $0.22 billion was derived from general revenues, resulting in an overall funding breakdown as follows: Petroleum tax $0.2 billion Feedstock chemicals tax 1.2 billion Subtotal--taxes $1.4 billion General revenue appropriations 0.2 billion Total financing $1.6 billion	Provides for deposits of tax revenues and general revenue appropriations intended to total $10.46 billion in Superfund revenues for fiscal years 1986-1990 (including interest and estimated recoveries). $8.0 billion of the intended $10.46 billion funding level is derived from taxes, $1.58 billion from general revenues, $0.55 billion from interest, and $0.31 billion from recoveries, resulting in an overall funding breakdown as follows: Petroleum tax $3.1 billion Feedstock chemicals tax 2.0 billion Imported derivatives tax 0.07 billion Waste management tax 2.0 billion Gasoline tax to fund Leaking Underground Storage Tank Trust Fund 0.85 billion Subtotal--taxes $8.0 billion General revenue appropriations 1.58 billion Interest 0.55 billion Recoveries 0.31 billion Total financing $10.46 billion	Provides for deposits of tax revenues intended to total $7.4 billion in Superfund revenues for fiscal years 1986-1990 (including interest but not recoveries). $6.9 billion of the intended $7.4 billion funding level is derived from taxes and $0.5 billion is derived from interest, as follows: Petroleum tax $0.21 billion Feedstock chemicals tax 1.26 billion Superfund excise tax 5.43 billion Subtotal--taxes $6.9 billion Interest 0.5 billion Total financing $7.4 billion

Item	Present Law	House Bill	Senate Bill
B. Other financing sources	The following amounts are deposited in the Superfund: (1) amounts recovered from parties responsible for hazardous substance releases; (2) penalties assessed against responsible parties; and (3) punitive damages for failure to provide removal or remedial action upon order of the President.	Same as present law.	Same as House Bill.

Item	Present Law	House Bill	Senate Bill
C. Expenditure purposes	Amounts in the Superfund are available for expenditures incurred in connection with releases or threats of releases of hazardous substances into the environment. Allowable costs include:		
	(1) Costs of responding to the presence of hazardous substances on land or in the water or air, including cleanup and removal of such substances and remedial action.	(1) Same as present law.	(1) Same as House Bill.
	(2) Certain costs related to response, including epidemiologic studies and maintenance of emergency strike forces.	(2) Same as present law.	2) Same as House Bill.
	(3) Payment of assessment and damage claims for injury to, or destruction or loss of, natural resources belonging to or controlled by Federal or State governments. No more than 15 percent of Superfund revenues attributable to taxes and general revenue appropriations may be used for the payment of natural resource assessment and damage claims.	(3) Deletes natural resource assessment and damage claims as a permitted expenditure purpose.	(3) Retains present law.

Item	Present Law	House Bill	Senate Bill
C. Expenditure purposes (Cont.)	(4) No provision.	(4) The Trust Fund would be available for a number of additional expenditure purposes added by Title I of the bill (including costs of health assessments and toxicological profiles; grants for technical assistance to groups of individuals affected by hazardous substance releases; reimbursements to local governments for the costs of certain temporary emergency measures, not to exceed $25,000 per response or an aggregate of 1/10 of 1 percent of fund expenditures; oversight and review of private remedial actions; evaluation of potential hazards pursuant to petitions filed by affected persons; and various research and training programs in connection with hazardous substances).	(4) The Trust Fund would be available for a number of additional expenditure purposes added by Title I of the bill (including costs of health assessments and toxicological profiles; technical assistance grants, not to exceed $75,000 per facility; matching grants to States for cleanup and stabilization of contaminated facilities, not to exceed $1 million per year per State; a $15 million pilot program for the removal of lead-contaminated soil; and various research and training programs).

Item	Present Law	House Bill	Senate Bill
C. Expenditure purposes (Cont.)	(5) Superfund moneys generally are available for transfer of hazardous waste.	(5) No Superfund moneys are available for transfer of any hazardous substance from a facility at which a release (or threatened release) has occurred to a facility for which a final permit is in effect under section 3005(a) of the Solid Waste Disposal Act, if (i) such permit was issued after January 1, 1983, and before November 1, 1984; (ii) the transfer is carried out pursuant to a cooperative agreement between the EPA; and (iii) fund moneys could not be used for the transfer, except for a provision contained in Title I of the House bill (sec. 118(e) of the bill).	(5) No provision.
G. Limitation on liability	Claims against the Superfund may be paid only out of the fund. If claims against the Superfund exceed the balance available for payment of those claims, the claims are to be paid in full in the order in which they are finally determined.	Same as present law.	Same as House bill.

Item	Present Law	House Bill	Senate Bill
E. Borrowing authority	The Superfund has authority to borrow from general Treasury funds for the purposes of paying response costs in connection with a catastrophic spill or paying natural resource damage claims. Outstanding advances at any time may not exceed estimated tax revenues for the following 12 months; advances for paying natural resource claims may not exceed 15 percent of such revenues. All advances must be repaid by September 30, 1985.	The Superfund would have authority to borrow for any authorized expenditure purpose. All such advances would be required to be repaid by September 30, 1990.	The Superfund would have authority to borrow for any authorized expenditure purpose, but with outstanding advances limited to estimated tax revenues for the following 12 months (as under present law). The 15-percent limit on borrowings to pay natural resource assessment and damage claims is retained. All advances would be required to be repaid by December 31, 1990.
F. Location of trust fund provisions	The Superfund is created as a fund in the Treasury under the 1980 legislation (CERCLA), but is not included under the trust fund code of the Internal Revenue Code.	The Superfund would be established as a trust fund under the Internal Revenue Code. Effective date.--November 1, 1985.	Same as House Bill. Effective date.--October 1, 1985.

Item	Present Law	House Bill	Senate Bill
II. Petroleum Tax			
A. Imposition of tax	An excise tax of 0.79 cent per barrel was imposed on (1) crude oil received at a U.S. refinery; and (2) petroleum products (including crude oil, natural and refined gasoline, refined and residual oil, and certain other liquid hydrocarbon products) imported into the U.S. for consumption, use, or warehousing.	The tax would be increased to 11.9 cents per barrel. Effective date.--November 1, 1985.	The tax would be extended at its present law rate. Effective date.--October 1, 1985.
B. Termination date	The tax expired on September 30, 1985.	The tax would expire on September 30, 1990.	The tax generally would expire September 30, 1990. The tax would terminate earlier than September 30, 1990, if cumulative Superfund receipts from taxes and interest during the 5-year period reach $7.5 billion. The tax also would be suspended or terminated under certain circumstances if the unobligated balance of the Superfund exceeds $2.225 billion on September 30, 1988, or $3 billion on September 30, 1989. (A floor amendment by Senator Heinz, agreed to by voice vote, adjusted these amounts from $1.5 billion on each date.)

Item	Present Law	House Bill	Senate Bill
III. Tax on Feedstock Chemicals A. Imposition of tax	A tax was imposed on the sale of 42 organic and inorganic substances ("feedstock chemicals") by a manufacturer, producer, or importer, at the rates listed in Appendix A (attached). The tax rates were set in 1980 and were limited to the lower of 2 percent of wholesale prices or (1) $4.87 per ton for petrochemicals, and (2) $4.45 per ton for inorganic feedstocks. (Certain chemicals were taxed at lower rates than would be arrived at under this formula.) The feedstock chemicals tax applied to chemicals manufactured in the U.S. (as defined for purposes of the petroleum tax) or imported into the U.S. for consumption, use, or warehousing. If a taxpayer used a taxable feedstock prior to sale, the tax was imposed on such use. If one taxable chemical was used to produce a second, the tax on the first chemical was allowed as a credit against the second tax (to the extent of that second tax).	Tax would be imposed on present law feedstocks and, additionally, lead. The tax rates would be set at the lower of 2.0 percent of current estimated wholesale price or a cap equal to $6.25 for all chemicals (except xylene), but not lower than the present law rate for any presently taxed chemical (see Appendix A). Beginning in 1987, the tax rates would be indexed annually for inflation, as measured by the average producer price index for organic or inorganic chemicals, but would not be reduced below 1986 rates. Under a special rule, the tax on nitric acid used by the producer to produce nitrocellulose could not exceed 24 cents per ton. Effective date.--November 1, 1985.	The present law tax would be extended. Effective date.--October 1, 1985.

Item	Present Law	House Bill	Senate Bill
B. Exceptions to tax	Exceptions to the feedstock chemicals tax were provided for: (1) Butane or methane used as a fuel. (2) Nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, if used to produce fertilizer. (3) Sulfuric acid produced solely as a by-product of (and on the same site as) air pollution control equipment. (4) Any taxable feedstock to the extent derived from coal. (5) Petrochemicals used to manufacture or produce motor fuel, diesel fuel, aviation fuel, or jet fuel. (6) Cupric sulfate, cupric oxide, cuprous oxide, zinc chloride, zinc sulfate, barium sulfide or lead oxide which exist in transitory form in the process of refining non-taxable metal ores or compounds into other (or purer) non-taxable compounds.	Modifies and expands present law exceptions as follows: (1) Retains present law exception. (2) Retains present law exception. (3) Retains present law exception. (4) The exception is repealed. (5) Retains present law exception. (6) Retains present law exception (with addition of lead).	Modifies and expands present law exceptions as follows: (1) Same as House bill. (2) Same as House bill. (3) Same as House bill. (4) Retains present law exception. (5) Same as House bill. (6) Retains present law exception.

Item	Present Law	House Bill	Senate Bill
B. Exceptions to tax (Cont.)	(7) No provision.	(7) Nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, if used (or sold for ultimate use) in the manufacturer or production of animal feed.	(7) Same as House bill.
	(8) No provision.	(8) Domestically recycled nickel, chromium, cobalt, or lead. This exception would not apply for an period during which a required corrective action under RCRA or CERCLA has not been completed by the taxpayer. Effective date.--November 1, 1985.	(8) Same as House bill, except (i) the exception does not apply for any period during which the taxpayer has been notified that it is a potentially responsible party for a site listed on the National Priorities List, unless the taxpayer is in accord with all orders, notices, and judgments (under RCRA or CERCLA) with respect to the site; and (ii) the exception does not include lead (which is not taxed under the Senate amendment). Effective date.--October 1, 1985.

Item	Present Law	House Bill	Senate Bill
C. Treatment of exported feedstocks	No exemption is provided for exports of taxable feedstocks.	Taxable feedstocks sold for export by the manufacturer or producer, or for resale by a second purchaser for export, would be exempt from tax. If tax is paid on a chemical, and the chemical is later exported, a credit or refund would be allowed to the person who paid the tax. Effective date.--November 1, 1985.	Same as House bill. Effective date.--October 1, 1985.
D. Clarification of tax treatment of xylene	Treasury has taken the position that xylene includes separated isomers of xylene for purposes of the feedstocks tax.	It would be clarified that, except for imports and exports, xylene does not include separated isomers for purposes of the feedstock tax. Separation of xylene isomers would constitute use of a mixed stream of xylene and would be a taxable event. Effective date.--The provision generally would be effective November 1, 1985. Taxes previously imposed on xylene (i.e., since 1980) would be refunded or credited (with interest) to the taxpayers. To compensate for lost revenues, the tax rate on xylene would be increased prospectively (see Appendix A).	No provision.

Item	Present Law	House Bill	Senate Bill
E. Treatment of inventory exchanges	Under proposed Treasury regulations, exchanges of taxable chemicals are treated as sales.	Subject to registration and notification requirements, where inventories of taxable chemicals are exchanged, tax would be imposed only upon the later sale or use of the chemical by the person receiving the chemical in the exchange. This rule would not apply if the receiving person would not be taxable on the sale of the chemical, unless such treatment would be as a result of the export exemption (item C above). Effective date.--The amendment regarding inventory exchanges would apply retroactively to the original effective date of the feedstocks tax (April 1, 1981). However, the amendment would apply to any exchange before January 1, 1986, only if (1) the manufacturer, producer, or importer did not treat the exchange as a taxable sale, and (2) the recipient agrees to be treated as the taxable person for purposes of the tax. The registration and notification requirements would apply to exchanges after December 31, 1985.	Same as House bill, but does not include requirement that, for pre-1986 exchanges, the recipient must agree to be treated as the taxable person. (The provision regarding exchanges was added by a floor technical amendment by Senators Packwood and Long, adopted by voice vote.)

Item	Present Law	House Bill	Senate Bill
F. Expiration of tax	The tax expired on September 30, 1985.	The tax would expire on September 30, 1990.	The tax would expire on September 30, 1990, or earlier under the same conditions as the petroleum tax (see section II. B., above).

Item	Present Law	House Bill	Senate Bill
IV. Tax on Imported Chemical Derivatives			
A. Imposition of tax	Crude oil, certain petroleum products, or taxable feedstock chemicals that are imported into the U.S. are subject to the petroleum or feedstocks tax (secs. II and III above). No tax is imposed on imports of products that are derived from these materials.	Tax is imposed on the sale of any listed chemical derivative by the importer thereof. The initial list includes 47 chemical derivatives (see Appendix B). The Secretary of the Treasury is to list any other imported substances determined to have more than 50% of their value derived from petroleum or taxable feedstock chemicals used as materials or process fuel. This determination is to be based on the predominant method of production. The Treasury may delist substances (including initially listed substances) as necessary to carry out the purposes of the tax. Substances are taxable only if listed at the time of sale or use by the importer.	No provision.

Item	Present Law	House Bill	Senate Bill
D. Tax rate	No provision.	The amount of the tax is: (i) the amount of tax which would have been imposed under the feedstock tax on the taxable chemicals used as materials or process fuel, if such taxable chemicals had been sold in the U.S. for an equivalent use, or (ii) if the importer does not furnish sufficient information to determine the tax under (i) above, 5 percent of the appraised value of the imported substance at the time of import.	No provision.
C. Procedure and definitions	No provision.	The tax is imposed on the importer of a listed substance at the time such substance is sold or used. No tax is imposed if the petroleum or feedstock chemical taxes are imposed on the same sale or use. The United States includes Puerto Rico and specified U.S. possessions (as defined for purposes of the petroleum and feedstock taxes). Revenues from the tax are not covered over to Puerto Rico or the Virgin Islands under sec. 7652.	No provision.

Item	Present Law	House Bill	Senate Bill
D. Termination date	No provision.	The tax terminates on September 30, 1990. Effective date.--January 1, 1987.	No provision.

Item	Present Law	House Bill	Senate Bill
V. Waste Management Tax			
A. In general	No provision. (A dry weight tax on hazardous waste was imposed for purposes of funding the Post-closure Liability Trust Fund, discussed in VII., below.)	A tax designed to raise $2 billion would be imposed on the management of hazardous waste at qualified hazardous waste disposal facilities. A "back up" tax also would be imposed on certain hazardous waste that is not received at a qualified hazardous waste disposal facility within 270 days of generation, and which is not exempt from the waste management tax.	No provision.

Item	Present Law	House Bill	Senate Bill
B. Imposition of tax	No provision.	Tax would be imposed on (1) the receipt of hazardous waste at a qualified hazardous waste management unit, (2) The receipt of hazardous waste for transport from the United States for the purpose of ocean disposal, and (3) The export of hazardous waste from the United States. For purposes of (1) above, a "qualified hazardous waste management unit" would mean the specified area of land or structure which (i) isolates hazardous wastes within a qualified hazardous waste management facility, and (ii) is subject to interim status or final permit requirements under subtitle C of the Solid Waste Disposal Act ("SWDA").	No provision.

Item	Present Law	House Bill	Senate Bill
B. Imposition of tax (Cont.)		A "qualified hazardous waste management facility" would mean any facility (as defined under subtitle C of the Solid Waste Disposal Act) which has received a permit or interim status under section 3005(c) of the Solid Waste Disposal Act or an authorized State program. Hazardous waste would be defined as any waste which is listed or identified under section 3001 of the Solid Waste Disposal Act as of the date of enactment, and which is not subsequently delisted. Thus, wastes the regulation of which has been suspended under present law (e.g., certain mining wastes) would not be subject to tax. The United States would include Puerto Rico, the Northern Marianas, the Pacific Trust Territory, and U.S. possessions (i.e., as defined for the petroleum and feedstock taxes).	

Item	Present law	House Bill	Senate Bill
C. Tax rates			
(1) Summary of rates	No provision.	The amount of tax imposed per ton of hazardous waste (on a wet-weight basis) is determined in accordance with the following table: If the taxable event is: Land Disposal: For calendar year 1986: $37.00; 1987: 39.00; 1988: 42.00; 1989: 44.00; 1990: 47.00 Any Other Taxable Event: The tax per ton is: $4.15 (1986–1990) In the case of waste received at any waste water treatment unit, no tax shall apply unless a corrective action remains uncompleted with respect to such facility. If a corrective action remains uncompleted, the tax imposed on waste received at a waste water treatment unit is 15 cents per ton.	No provision.

Item	Present Law	House Bill	Senate Bill
(2) Applicability of rates	No provision.	Tax rates would be applied to different taxable events as follows: Land disposal.--The land disposal rate would apply to hazardous waste received at a landfill, surface impoundment, waste pile, or land treatment unit, each as defined by EPA pursuant to sections 3004 and 3005 of the Solid Waste Disposal Act. The land disposal rate would not apply to surface impoundments which are part of waste water treatment systems or are deep well injection units.	No provision.

Item	Present Law	House Bill	Senate Bill
(2) Applicability of rates (Cont.)		Other taxable events.--The lower tax rate would apply to all other taxable events, including: (1) ocean disposal of hazardous waste, (2) export of hazardous waste, and (3) receipt of hazardous waste at other qualified hazardous management units, including deep well injection facilities. For this purpose, deep well injection facilities would include any containers, tanks, or surface impoundments principally used to treat or store hazardous waste before underground injection.	No provision.

Item	Present Law	House Bill	Senate Bill
D. Exemptions and credits			
(1) Waste water treatment	No provision.	Hazardous waste received at a waste water treatment unit would be exempt from tax unless a corrective action order remains uncompleted with respect to the facility. A waste water treatment unit is any qualified hazardous waste management unit which is an integral and necessary part of a treatment system, other than a unit which receives concentrated treatment residues for storage or final disposition.	No provision.

Item	Present Law	House Bill	Senate Bill
(l) Waste water treatment (Cont.)		A waste water treatment system is a facility: (i) for which a permit is required under section 402 of the Clean Water Act, (ii) which is subject to pretreatment standards under subsection (b) or (c) of section 307 of the Clean Water Act, or (iii) which is a zero discharge treatment system (a) which, if it discharged into navigable waters, would comply with effluent limitation guidelines promulgated under paragraphs 2 and 4 of section 304(b) of the Clean Water Act, (b) which, if it discharged into a publicly owned treatment works, would comply with the pretreatment standards in (ii) above, or (c) which, if no such guidelines or standards have been promulgated, employs biological treatment.	

Item	Present Law	House Bill	Senate Bill
(2) Incineration	No provision.	A credit or refund of tax (without interest) is provided for waste that is incinerated on land (or the equivalent of incineration on land) within 90 days after the date on which such waste is first received at a qualified hazardous waste management unit. A process is treated as the equivalent of incineration on land if such process meets detailed performance standards established by the Environmental Protection Agency, and such standards require a destruction and removal efficiency at least equivalent to that applicable to incineration on land.	No provision.

Item	Present Law	House Bill	Senate Bill
(3) Qualified chemical fuels or solvents	No provision.	A credit or refund is provided (without interest) for tax imposed on waste used in the production of any qualified chemical fuel or solvent for use in any commercial or industrial application. A qualified chemical fuel or solvent is any chemical fuel or solvent determined by the Administration as not being hazardous.	No provision.
(4) Recycling of batteries	No provision.	Batteries.--A credit or refund (without interest) is provided for tax paid on the receipt of a battery at a qualified hazardous waste management unit if recycling of such battery commences within 90 days of receipt.	No provision.

Item	Present Law	House Bill	Senate Bill
(5) Corrective action	No provision.	The exemption for waste water treatment units is not allowed with respect to any activity conducted at a facility (or part thereof) while a required corrective action remains uncompleted with respect to such facility (or part). **A corrective action is treated as uncompleted starting on the date that such action is required pursuant to a final permit (under sec. 3005 of the SWDA) or a final order (under secs. 3004 or 3008 of the SWDA); and ending on the date that the Administrator, or an authorized State, certifies to the Secretary that such corrective action has been completed.**	No provision.

Item	Present Law	House Bill	Senate Bill
F. Other exemptions	No provision.	(1) Receipt or export of hazardous waste pursuant to corrective actions required by an order or permit issued by the EPA Administrator under the Solid Waste Disposal Act (or by a State under an authorized program). (2) Receipt or export of hazardous waste pursuant to a proposed or final closure plan approved by the Administrator or an authorized State. (3) Receipt or export of hazardous waste pursuant to a removal or remedial action under CERCLA, if the response action has been selected or approved by the EPA Administrator. (4) Receipt or export of hazardous waste pursuant to an action to correct an emergency situation arising from a product spill which is certified by the Administrator to the Secretary as carrying out the purposes of CERCLA. (5) Hazardous waste received at a Federally owned facility.	No provision.

Item	Present Law	House Bill	Senate Bill
F. Procedure and Administration (1) Payment of tax	No provision.	Tax would be payable by (i) the owner or operator of a qualified hazardous waste management unit, (ii) in the case of ocean disposal, the owner or operator of the vessel or aircraft engaged in ocean disposal, or (iii) in the case of export, the exporter of hazardous waste.	No provision.

Item	Present Law	House Bill	Senate Bill
(2) Avoidance of double tax	No provision.	If tax is paid with respect to hazardous waste, and a later taxable event takes place with respect to the same waste, the tax on the later taxable event would be reduced by the product of (a) the weight of hazardous waste involved in the later taxable event, multiplied by (b) the lesser of (i) the highest tax rate previously paid on any taxable event involving the same waste, or (ii) the rate of tax on the later taxable event.	No provision.

Item	Present Law	House Bill	Senate Bill
(3) Information reporting and penalty provisions	No provision.	Persons subject to the waste management tax, and other persons identified in Treasury regulations, are required to submit to the Treasury such information as may be required in the regulations. This information includes, but is not limited to, information which is required to be provided to EPA under the Solid Waste Disposal Act. A penalty of $100 per day (not to exceed a total $50,000 penalty) is imposed for failure to provide required information, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. (This penalty is in addition to any other penalty provided by law.)	No provision.
G. Termination date	No provision.	The waste management tax generally would expire on September 30, 1990. Effective date.--Hazardous waste received or exported after December 31, 1985.	No provision.

Item	Present Law	House Bill	Senate Bill
II. Backup tax on generation of hazardous waste			
(1) In general	No provision.	Tax is imposed on hazardous waste which 270 days after generation has not been (1) received at a qualified hazardous waste management unit, (2) received for transport from the United States for the purpose of ocean disposal, or (3) exported from the U.S. The generator of the waste is liable for the tax.	No provision.
(2) Rate of tax	No provision.	Tax is imposed at the rate applicable for land disposal. However, the Secretary may prescribe regulations which provide exemptions from the backup tax (or a reduced rate) as may be consistent with the purposes of the backup tax.	No provision.

Item	Present Law	House Bill	Senate Bill
(3) Exemptions	No provision.	The backup tax shall not apply to: (i) Hazardous waste generated during any month in which the generator of such waste generates less than 100 kilograms of hazardous waste during such months; (ii) Waste legally disposed of in publicly owned treatment works; or (iii) Waste which is exempt from the waste management tax. Termination date.--The backup tax does not apply to waste generated after September 30, 1990. Effective date.--Waste generated after December 31, 1985.	

Item	Present Law	House Bill	Senate Bill
VI. Superfund Excise Tax			
A. Imposition of tax	No provision.	No provision.	Imposes an excise tax on the sale, lease, or transfer of tangible personal property by the manufacturer of the property, in connection with a trade or business. The tax is equal to 0.08 percent of the sales price of, or gross lease payments for, the property (i.e., $8 of tax per $10,000 of taxable amount). Tax is also imposed (at the same 0.08 percent rate) on importers of tangible personal property based on the customs value plus duties (or, if no customs value is available, the fair market value) of the imported property. The tax is deductible from Federal income taxes.

Item	Present Law	House Bill	Senate Bill
B. Credit against tax	No provision.	No provision.	A credit equal to 0.08 percent of the taxpayer's qualified inventory costs is allowed against the tax. "Qualified inventory costs" are amounts paid or incurred for purchases of tangible personal property and which are allocable to the inventory of a manufacturer using the full absorption accounting method (unless otherwise provided in regulations). Property manufactured for lease is treated in the same manner as property manufactured for sale. In lieu of any allowance for depreciation or amortization, qualified inventory costs include amounts paid or incurred for depreciable or amortizable property (i.e., expensing treatment). A taxpayer who includes the cost of tangible personal property in qualified inventory costs is treated as the manufacturer of the property if the property is subsequently sold or leased. Credits may be carried forward but not refunded.

Item	Present Law	House Bill	Senate Bill
C. Exemption for small manufacturers	No provision.	No provision.	A manufacturer with $5 million or less of annual taxable receipts is effectively exempt from tax via a minimum $4,000 allowable credit. (The minimum credit is not available to importers, is not refundable, and may not be carried over).
D. Exemptions for small imports, tax-exempt entities, and exports	No provision.	No provision.	Exemptions from the tax are provided for: (a) Import shipments with an aggregate value of $10,000 or less. (b) Items sold or leased (but not imported) by governmental units or organizations exempt from taxation under sec. 501(a) (other than in unrelated trades or businesses). (c) Exports from the United States.

Item	Present Law	House Bill	Senate Bill
E. Definitions	No provision.	No provision.	"Manufacturing" includes mining, raw material production, and the production of tangible personal property. Manufacturing does not include services incidental to storage or transportation of property; preparation of food in a restaurant or other retail establishment; or incidental preparation of property by a wholesaler or retailer. "Tangible personal property" includes natural gas and other gaseous products and materials. Tangible personal property does not include electricity, unprocessed agricultural products, or unprocessed food products.

Item	Present Law	House Bill	Senate Bill
F. Termination date	No provision.	No provision.	Termination date.--The tax terminates after December 31, 1990. The tax would be suspended or terminated earlier under similar conditions as the petroleum and feedstock chemical taxes (see above).
Effective date	No provision.	No provision.	Effective date.--The tax is effective on January 1, 1986. A floor amendment by Sen. Helms, approved by a voice vote, would have provided that it is the sense of the Senate that the committee on conference on H.R. 2005 should not report legislation containing a broad-based tax on sales. However, similar language was rejected by a vote of 66 to 32 when the Superfund provisions were added to S. 1730, the Consolidated Omnibus Budget Reconciliation Act of 1985.

Item	Present Law	House Bill	Senate Bill
VII. Post-Closure Liability Trust Fund and Tax	A separate trust fund, the Post-Closure Liability Trust Fund, is to assume completely the liability of owners and operators of hazardous waste disposal facilities that have been granted permits and have been properly closed under Subtitle C of the Resource Conservation and Recovery Act (RCRA). The Fund also may be used to pay certain monitoring and maintenance costs. An excise tax of $2.13 per dry weight ton was imposed on the receipt of hazardous waste at a qualified facility, in order to finance the Post-Closure Fund. The authority to collect the Post-Closure tax expired on September 30, 1985.	Repeals the Post-Closure Liability Tax and Trust Fund, Effective October 1, 1983. Because of this retroactive repeal, taxpayers who paid this tax may file claims for refunds of this tax, plus interest.	Repeals the Post-Closure Liability Tax and Trust Fund, effective October 1, 1985. Transfers the unobligated balance in the Trust Fund to the Superfund. Provides that that amount shall be refunded (proportionately to the Post-Closure taxes paid and without interest) effective March 1, 1989, unless by that date the Congress authorizes a transfer or assumption of post-closure liability in response to a study required to be made by EPA. (Floor amendment by Sen. Heinz, adopted by voice vote.)

Item	Present Law	House Bill	Senate Bill
VIII. Leaking Underground Storage Tank Trust Fund and Tax	Petroleum releases and releases of natural or synthetic gases are not covered by the Superfund. (Some petroleum releases are, however, specifically covered by other environmental laws.)	A separate Leaking Underground Storage Tank Trust Fund would be established, to be available for cleanup and related costs associated with leaking underground storage tanks containing petroleum products. This Trust Fund generally would be intended to be used to pay cleanup and related costs involving tanks where no solvent owner can be found, or where the owner or operator refuses or is unable to comply with an urgent corrective order. This Trust Fund would also be available to provide grants to States carrying out these purposes. This Trust Fund would be funded by: (a) an additional 0.2-cent per gallon tax on gasoline, diesel fuel, and special motor fuels sold by a producer or importer; liquid fuels (other than gasoline) used in motor vehicles, motor boats and trains; liquid aviation fuels; and fuels used in commercial transportation on inland waterways; generally using the tax base and collection procedures of the present law excise taxes on these fuels (secs. 4041, 4042, and 4081 of the Code);	No provision.

Item	Present Law	House Bill	Senate Bill
VIII. Leaking Underground Storage Tank Trust Fund and Tax (Cont.)		(b) interest on balances in this Trust Fund; and (c) recoveries from responsible parties under section 9003(h) of the Solid Waste Disposal Act. Termination provision.--The additional gasoline tax would expire on September 30, 1990. However, no further tax would be imposed if, before September 30, 1990, cumulative revenues from the tax exceed $850 million. Effective date.--November 1, 1985.	

Item	Present Law	House Bill	Senate Bill
IX. Oil Spill Liability Trust Fund and Tax A. In general	Funds relating to oil spill damages and cleanups have been created under various Federal statutes, including: (1) Section 311(k) of the Federal Water Pollution Control Act (Clean Water Act) ($35 million revolving fund for oil spill cleanups, supported by fines, penalties and general revenue appropriations); (2) The Trans-Alaska Pipeline Authorization Act ($100 million fund, financed primarily by a 5-cents-per-barrel fee on oil passing through the pipeline); (3) The Deepwater Port Act of 1974 ("Deepwater Port Liability Fund") ($100 million fund, financed by a 2-cents-per-barrel fee on oil loaded at a deepwater port); and (4) The Outer Continental Shelf Act Amendments of 1978 ("Offshore Oil Pollution Compensation Fund") ($200 million fund with respect to offshore oil spills, financed by a maximum 3-cents-per-barrel fee on owners of offshore oil).	An Oil Spill Liability Trust Fund would be established in the Treasury to be funded in part by a 1.3-cents-per-barrel tax on domestic and imported petroleum. Amounts in the Oil Spill Fund would be available for removal costs, certain damages sustained by U.S. claimants, and certain related costs associated with oil spills. Claimants generally would have the option of proceeding against the responsible party or recovering against the Fund, which could then proceed against the responsible party. The legislation would constitute an exclusive remedy for claims covered by the Fund. Liability of responsible parties would be on a strict, joint and several basis, with liability limits consistent with international agreements. Excess amounts remaining in the fund created by section 311(k) of the Federal Water Pollution Control Act would be transferred to the general fund of the Treasury.	No provision.

Item	Present Law	House Bill	Senate Bill
B. Uses of fund	No provision.	Amounts in the Oil Spill Fund would be available only for: (1) Payment of costs incurred in cleaning up or preventing oil pollution from vessels or offshore facilities ("removal costs"), under the Federal Water Pollution Control Act, the Deepwater Port Act, and the Intervention on the High Seas Act. (2) Claims for injury to, or destruction of, real or personal property. (3) Claims for loss of subsistence use of natural resources. (4) Payment of otherwise uncompensated economic loss sustained by any U.S. claimant as a result of oil spills from vessels or offshore facilities.	No provision.

SUPERFUND

Item	Present Law	House Bill	Senate Bill
B. Uses of fund (Cont.)		Compensable damages would include lost earnings and profits if: (a) loss is 25% or more of the claimant's earnings, or (b) in the case of seasonal activities, 25% of seasonal earnings are derived from affected activities. (5) Payment of contributions to the International Fund for Compensation for Oil Pollution Damage if the conventions establishing this fund came into force with respect to the United States. Under regulations, contributions to the International Fund shall be allowed only in proportion to the portion of such Fund used for purposes that are consistent with the uses of the domestic Oil Spill Liability Trust Fund.	

Item	Present Law	House Bill	Senate Bill
B. Uses of fund (Cont.)		(6) Administrative costs, but only to the extent necessary for and incidental to the implementation of the Comprehensive Oil Pollution Liability and Compensation Act. (7) Payments to any government are permitted only for removal costs and administrative expense related to removal costs. The liability of the Oil Spill Fund could not exceed $200 million for any single incident. Claims against the Fund could be paid out of the Oil Spill Fund only. If the fund is insufficient to pay all claims, claims are to be paid in full in the order in which finally determined.	

Item	Present Law	House Bill	Senate Bill
C. Tax on domestic and imported oil	(A tax on petroleum was imposed for deposit in the Superfund (see II., above).)	Imposition of tax.--An excise tax of 1.3 cents per barrel would be imposed on domestic crude oil and imported petroleum products, in addition to the 11.9-cents-per-barrel tax imposed on this base for the Superfund (see II., above). Credit for previous contributions.--A credit against the oil spill tax would be allowed (to the extent of prior contributions) for persons who contributed to: (1) the Deepwater Port Liability Fund, or (2) the Offshore Oil Pollution Compensation Fund. (The balance in these funds would be transferred to the Oil Spill Fund.) This credit would be nontransferable. Termination date.--Tax liability would terminate after September 30, 1990. Effective date.--The tax is effective after December 31, 1985.	(A tax on petroleum is imposed for deposit in the Superfund (see II., above).)

Item	Present Law	House Bill	Senate Bill
D. Other transfers to Trust Fund	No provision.	In addition to the petroleum excise tax, the following amounts would be deposited in the Oil Spill Fund: (1) Amounts recovered, collected, or received from responsible parties under the Comprehensive Oil Pollution Liability and Compensation Act. Penalties with respect to payment of taxes would not be deposited in the Oil Spill Fund. (2) Amounts remaining in the Deepwater Port Liability Fund and the Offshore Oil Pollution Compensation Fund, as of the date of enactment. (3) Income on Oil Spill Fund investments. (4) The proceeds of authorized borrowing by the Oil Spill Fund, not to exceed $300 million in outstanding indebtedness at any time. (5) Penalties and recoveries under the Federal Water Pollution Control Act.	No provision.

Item	Present Law	House Bill	Senate Bill
E. Administrative provisions	No provision.	The Oil Spill Liability Trust Fund would be established as a trust fund in the Internal Revenue Code. The Oil Spill Fund would be authorized to borrow, as repayable advances, up to $300 million at any one time to carry out the purposes of the Fund. Effective date.--The oil spill tax and trust fund provisions would be effective on January 1, 1986.	No provision.

Item	Present Law	House Bill	Senate Bill
X. Tax-exempt Bonds for Hazardous Waste Treatment Facilities	Tax-exempt industrial development bonds (IDBs) may be issued to finance solid waste disposal facilities (sec. 103(b)(4)(E)). Facilities for the disposal of liquid or gaseous waste (including most hazardous wastes) do not qualify for this financing.	No provision.	Allows tax-exempt IDBs to be issued to finance facilities for the treatment of hazardous waste, as these terms are defined under sec. 1004 of the Solid Waste Disposal Act (i.e., RCRA). This exemption is limited to facilities which are subject to final permit requirements under RCRA. Bonds issued under this provision are subject to the volume and other restrictions applicable to solid waste IDBs. Effective date.--Bonds issued after the date of enactment.

Item	Present Law	House Bill	Senate Bill
XI. Hazardous Waste Removal Costs Treated as Qualifying Distributions by Private Foundations	To avoid penalty excise taxes, a private foundation must annually make expenditures or grants for charitable purposes in an amount (the "distributable amount") equal to 5 percent of the fair market value of its investments (sec. 4942).	No provision.	Subject to certain limitations, provides that the distributable amount of a private foundation (under sec. 4942) is to be reduced by amounts paid or incurred or set aside by the foundation for removal or remedial action with respect to a hazardous substance release at a facility that was owned or operated by the foundation. Effective date.--Taxable years beginning after December 31, 1982. (Floor amendment by Sen. McConnell, adopted by voice vote.)

Item	Present Law	House Bill	Senate Bill
XII. Studies	Various studies of Superfund financing and operations were mandated by the original 1980 Superfund legislation:		
A. Alternative financing mechanisms	The CERCLA of 1980 required that EPA prepare the following study: "The Feasibility and Desirability of Alternative Tax Systems for Superfund CERCLA section 301(a)(1)(G) Study," U.S. EPA (December 1984).	No provision.	Directs the General Accounting Office (GAO) to report to the Finance Committee by January 1, 1988, its findings on various mechanisms for financing the Superfund, including a study of the effect of a tax on hazardous waste on the generation and disposal of such waste.

Item	Present Law	House Bill	Senate Bill
B. Effect of waste management tax	No provision.	Directs the Secretary to study the effects of the waste management tax on the ability of domestic manufacturers to compete in international trade, and to report to Congress by July 1, 1986.	No provision.
C. Study of lead poisoning	No provision.	Directs the Administrator of the Agency for Toxic Substances and Disease Registry to study the nature and extent of lead poisoning in children from environmental sources, and to report to Congress by March 1, 1986. Cost of study is authorized to be paid out of the Superfund.	No provision.

APPENDIX A: EXCISE TAX RATES ON FEEDSTOCK CHEMICALS UNDER PRIOR LAW AND HOUSE BILL

Substance	Prior Law Rate 4/	Proposed FY86 Rate 2/
Organic Substances:		
Acetylene	4.87	6.25
Benzene 1/	4.87	6.25
Butadiene	4.87	6.25
Butane	4.87	5.54
Butylene	4.87	6.25
Ethylene	4.87	6.25
Methane	3.44	3.44
Napthalene 1/	4.87	6.25
Propylene	4.87	6.25
Toluene 1/	4.87	6.25
Xylene 1/	4.87	11.19 3/
Inorganic Substances:		
Ammonia	2.64	4.20
Antimony	4.45	6.25
Antimony trioxide	3.75	6.25
Arsenic	4.45	6.25
Arsenic trioxide	3.41	6.25
Barium sulfide	2.30	6.25
Bromine	4.45	6.25
Cadmium	4.45	6.25
Chlorine	2.70	4.03
Chromite	1.52	1.52
Chromium	4.45	6.25
Cobalt	4.45	6.25
Cupric oxide	3.59	6.25
Cupric sulfate	1.87	6.25
Cuprous oxide	3.97	6.25
Hydrochloric acid	0.29	1.24
Hydrogen fluoride	4.23	6.25
Lead	0.00	6.25
Lead oxide	4.14	6.25
Mercury	4.45	6.25
Nickel	4.45	6.25
Nitric acid	0.24	3.90
Phosphorus	4.45	6.25
Potassium dichromate	1.69	6.25
Potassium hydroxide	0.22	6.25
Sodium dichromate	1.87	6.25
Sodium hydroxide	0.28	3.72
Stannic chloride	2.12	6.25
Stannous chloride	2.85	6.25
Sulfuric acid	0.26	1.03
Zinc chloride	2.22	6.25
Zinc sulfate	1.90	6.25

1/ Coal-derived benzene, napthalene, toluene, and xylene are exempt under current law. These substances would be taxed at the indicated rates under the bill.

2/ Proposed rates would be indexed for inflation, beginning in 1987, but would not be reduced below the rates stated in the table.

3/ Tax rate on xylene reflects increase to compensate for repeal of tax prior to 1986.

4/ These rates are the same as in the Senate bill.

APPENDIX B: INITIAL LIST OF TAXABLE SUBSTANCES FOR PURPOSES OF IMPORTED DERIVATIVES TAX UNDER HOUSE BILL

Cumene
Styrene
Ammonium nitrate
Nickel oxide
Isopropyl alcohol
Ethylene glycol
Vinyl chloride
Polyethylene resins, total
Polybutadiene
Styrene-butadiene, latex
Styrene-butadiene, snpf
Synthetic rubber, not containing fillers
Urea
Ferronickel
Ferrochromium nov 3 pct
Ferrochrome ov 3 pct carbon
Unwrought nickel
Nickel waste and scrap
Wrought nickel rods and wire
Nickel powders
Phenolic resins
Polyvinylchloride resins
Polystyrene resins and copolymers
Ethyl alcohol for nonbeverage use
Methylene chloride
Polypropylene
Propylene glycol
Formaldehyde
Acetone
Propylene oxide
Polypropylene resins
Ethylene oxide
Ethylene dichloride
Cyclohexane
Isophthalic acid
Maleic anhydride
Phthalic anhydride
Ethyl methyl ketone
Chloroform
Carbon tetrachloride
Chromic acid
Hydrogen peroxide
Polystyrene homopolymer resins
Melamine
Acrylic and methacrylic acid resins
Vinyl resins
Vinyl resins, NSPF